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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,795	09/28/2001	David Michael Lehner	KCC-15,612	3106
35844	7590	04/06/2004	EXAMINER	
PAULEY PETERSEN KINNE & ERICKSON 2800 WEST HIGGINS ROAD SUITE 365 HOFFMAN ESTATES, IL 60195			PARADISO, JOHN ROGER	
		ART UNIT	PAPER NUMBER	
		3721	15	

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/966,795	LEHNER ET AL.
	Examiner	Art Unit
	John R. Paradiso	3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 23 December 2003.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-35 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-35 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Terminal Disclaimer***

1. The terminal disclaimer filed on 12/23/20033 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Application 09/966,795 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 1-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of Japanese Patent 9-131,364 and WESTPHAL ET AL.

The admitted prior art suggested that it was known at the time the invention was made to form a disposable undergarment with refastenable side seam fasteners therein and additionally suggested that it was desirable to tuck and fold such so formed articles along the side seams for packaging purposes. The admitted prior art additionally suggested that it was known at the time the invention was made to incorporate tucking in folding mechanisms for side seams of such so formed undergarments wherein such known mechanisms included mechanical blades which rotate or travel with the product machine direction and push the sides in from each side of a

conveyor as the pant-like articles are being conveyed to a stacking and accumulating device. The admitted prior art additionally suggested that instead of these mechanical rotated blades one skilled in the art was well aware of the use of air bars to tuck the side seams inward as the product was being conveyed. The admitted prior art additionally suggested that it was known to employ vacuum while conveying the products, however the amount of vacuum applied was not sufficient to retain the sides of the product and creasing in undesirable locals resulted in the finished assembly. The admitted prior art failed to expressly suggest that one knew to employ a vacuum conveyor in combination with the tucking and folding of the side seams of the pant-like articles.

However, in the art of packaging pant-like articles, as suggested by Japanese Patent :364, it was known at the time the invention was made to tuck and fold the side seams of the undergarment as the same was being conveyed along a conveyor. Applicant is specifically referred to Figures 1 and 2 where the undergarment was opened up along the conveyance path, the side seams were tucked and folded, and the undergarment was compressed after tucking to complete the folding operation. The reference clearly suggested that as the undergarments were fed along the conveyor 10, it was subjected to side seam tucking and folding with members 7 acting upon the undergarment on opposite sides of the conveyor. The reference additionally suggested that those skilled in the art would have compressed the assembled undergarment with the sides tucked therein as suggested where the undergarment passes rollers 16 and 11 of the device. The reference failed to make mention of the use of vacuum on the conveyors as the undergarments were fed along the path of the folders for retaining the undergarment in an open disposition proper for tucking and folding followed by conveyance to the compression operation.

The reference to WESTPHAL ET AL suggested that those skilled in the art at the time the invention was made would have incorporated vacuum conveyors for feeding an undergarment along a path prior to the tucking and folding of the side seams in the manufacture of an article where the undergarment was opened up with the use of the vacuum conveyors. As the vacuum conveyors diverged, the undergarment was opened up and prepared to folding and tucking of the side seams prior to packaging the undergarments. The reference suggested that those skilled in the art would have known to employ a vacuum conveyor in conjunction with the tucking and folding of the side portions of the undergarment. The amount of vacuum applied can be variable or constant and one skilled in the art would have determined through routine experimentation the desired amounts of vacuum necessary to retain the undergarments during transport, tucking, and folding. Applicant is specifically referred to Figures 1 and 9, and column 5, lines 39-68.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a vacuum conveyor in Japanese Patent 9-131,364 to facilitate proper opening up and compaction as well as feeding of the undergarments as WESTPHAL ET AL clearly suggested such would have been useful in a tucking a folding arrangement for feeding the undergarment and wherein the undergarments being treated included those having refastenable side fasteners associated with the side seams as admitted was known by applicant's admitted prior art.

With regard to the various dependent claims, the applicant is advised that the use of mechanical blades which were rotated during the tucking operation was admitted as known in the art by applicant. Likewise, the use of air to tuck the side seams inward was additionally admitted

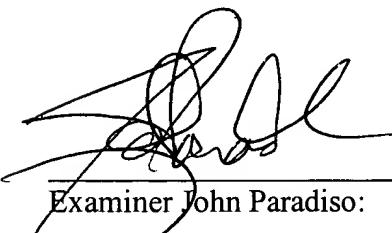
as known by applicant. Use of such known means would have been understood to have been a functionally equivalent alternate expedient to the tucking mechanisms suggested by Japanese Patent 9-131,364. Additionally, the amount of vacuum applied would have been the conventional amounts employed in the process as modified by WESTPHAL ET AL. Note that applicant has admitted that 15 inches of water was known. Additionally, the feeding of the undergarments to an accumulation device which includes stacker fingers was known in the art and such is taken as conventional stacking and accumulating devices. The use of the process on an undergarment which was a training pant or a swim pant would have been within the purview of the ordinary artisan as both such pant-like articles were known to have been tucked and folded along the sides in the packaging of the same.

### *Conclusion*

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.



Examiner John Paradiso: (703) 308-2825

April 5, 2004

Additional Phone Numbers:

Supervisor Rinaldi Rada: (703) 308-2187  
TC 3700 Receptionist: (703) 308-1148  
Customer Service: (703) 306-5648  
Fax (directly to Examiner) (703) 746-3253  
Fax (Official): (703) 872-9306